

Meggison also asserts counsel was ineffective because the jury found the quantity of heroin involved was less than the 100 grams charged in the indictment, yet he was still convicted. The specific quantity of drugs involved, however, so long as there was possession of some detectable amount with intent to distribute, is not an element of the crime. *See U.S. v. General*, 278 F.3d 389, 393 (4th Cir. 2002). Counsel was not ineffective for failing to challenge the conviction on this basis, nor for failing to request a "lesser-included offense" instruction, as there was no evidence to support a finding that the multiple packets (over 1,500) of heroin were for Meggison's personal use. *See U.S. v. Wright*, 131 F.3d 1111, 1112-13, (4th Cir. 1997).

Finally, the issue of delay under the Speedy Trial Act, *see* 18 U.S.C. § 3161(h), was in fact addressed by the court, and there was no violation shown, as the times involved were excludable under the Act. Counsel was not deficient in presenting this issue.

Accordingly, the Motion will be denied by separate Order.

February 5, 2009

Date

/s/



Catherine C. Blake
United States District Judge